

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SOUTH FORK BAND COUNCIL OF WESTERN
SHOSHONE OF NEVADA; TIMBISHA
SHOSHONE TRIBE; WESTERN SHOSHONE
DEFENSE PROJECT; and GREAT BASIN
RESOURCE WATCH,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE
INTERIOR; UNITED STATES BUREAU OF
LAND MANAGEMENT; GERALD M. SMITH,
District Manager, Battle Mountain Field Office,

Defendants,

and

BARRICK CORTEZ, INC.

Defendant-Intervenor.

Case No. 3:08-CV-00616-LRH-RAM

JOINT STIPULATION AND
ORDER

Judge: Larry R. Hicks

Magistrate Judge: Robert A. McQuaid,
Jr.

The parties hereby stipulate that the following conditions shall govern the actions of the parties pending resolution of the plaintiffs' motion for a preliminary injunction with respect to Barrick Cortez, Inc.'s ("Cortez") Cortez Hills Project ("Cortez Hills Project" or "Project"):

1. Cortez may relocate the power transmission lines. This work will take place both on the upper pediment area (to remove the existing line from its current location) and lower down the hill (to install the new power line). *See* areas labeled "1" on the photograph attached as Exhibit 1

1 (The two “1s” on the photograph are generally intended to reflect the before and after positions of the
2 power line, as more specifically reflected in FEIS Figures 2-3 and 2-21).

3 2. Cortez may relocate the existing county road to the new location. *See* Exh. 1, area
4 labeled “2” on the attached photograph. Provided, however, that public motorized travel on County
5 Road 222 between Crescent Valley and Grass Valley shall remain open, subject to reasonable
6 construction and maintenance delays, not to exceed 20 minutes.

7 3. Cortez may extend the haul road to connect the crusher pad with the existing haul
8 road. *See* Exh. 1, area labeled “3.”

9 4. Cortez may perform site preparation and construction activities at the site of the
10 crusher facility. *See* Exh. 1, area labeled “4.”

11 5. Cortez may perform site preparation and construction activities at the site identified as
12 the truck shop. *See* Exh. 1, area labeled “5.”

13 6. Cortez may perform site preparation and construction work associated with the
14 conveyor. *See* Exh. 1, area labeled “6.”

15 7. Cortez may continue archaeological clearance work throughout the Project area.

16 8. Cortez may perform underground mining operations generally, including as previously
17 permitted under Cortez’s a separate permit and exploration plan of operations as well as the BLM’s
18 Final Environmental Impact Statement (“FEIS”) and Record of Decision (“ROD”) at issue in this
19 case).

20 9. Cortez will remove the water lines, tanks, and trucks presently located for dust
21 suppression purposes north of the boundary of the heap leach facility, *see* Exh. 1, area labeled “C”,
22 during the term of this Stipulation.

23 10. Cortez may access any and all areas within the Cortez Hills Project area and perform
24 any and all work previously permitted and authorized separate and apart from the FEIS and ROD at
25 issue in this case. In other words, nothing herein shall be construed to limit the work and activities of
26 the Barrick entities which is authorized under pre-existing permits and approvals. Cortez has
27 received permits and approvals, other than the FEIS and ROD plaintiffs are presently challenging in
28 this case, for exploration and other activities for the Cortez Hills Project. For example, Cortez has

1 received permits and approvals to install instrumented drill holes and storm water control features
2 under a separate permit and exploration plan of operations. Thus, such previously permitted work
3 will be permitted to continue and not be affected by this Stipulation.

4 The parties further agree in accordance with the terms of this Stipulation that Cortez will
5 temporarily suspend the following activities permitted by the FEIS and ROD in this case:

6 11. Cortez will not cut trees, begin mining, or conduct further activities permitted by the
7 ROD in this case, in the approximately 835 acres comprising the Cortez Hills Project pit area. *See*
8 Exh. 1, area labeled "A." Cortez, however, will be allowed to disturb the pit area to the extent
9 required to move the power transmission line, construct the haul road, or perform previously
10 permitted work, as specifically allowed above.

11 12. Cortez will not perform site preparation, construction work, or conduct further
12 activities permitted by the ROD in this case, in the approximately 1,936 acres comprising the Cortez
13 Hills Project waste rock dumps. *See* Exh. 1, areas labeled "B."

14 13. Cortez will not perform site preparation, construction work, or conduct further
15 activities permitted by the ROD in this case, on the approximately 328 acres comprising the Cortez
16 Hills Project leach pad. *See* Exh. 1, area labeled "C" ("C area").

17 14. Cortez will not perform any work or other activities within a radius of 200 yards of the
18 water monitoring well PD-03 that is located just north of the C area and will not impede plaintiffs'
19 access to and use of this area.

20 The parties agree that in light of this Stipulation, plaintiffs' motion for a temporary restraining
21 order (docket no. 12) is moot. Plaintiffs are not required to post a bond before the Preliminary
22 Injunction hearing, however, Cortez reserves the right to seek a bond if the Court should enter a
23 preliminary injunction, and this Stipulation and/or any resulting Order from the Court shall not
24 prejudice Cortez's rights to seek such a bond, nor prejudice plaintiffs' rights to seek a zero or nominal
25 bond.

26 The parties agree that the conditions and restrictions of this Stipulation will remain in full
27 force and effect until 3 calendar days after the close of the preliminary injunction hearing, or January
28 23, 2009, whichever is earlier.

1 The parties agree that neither plaintiffs, nor any members of plaintiffs' organizations shall
2 impair, impede, or otherwise interfere with the work permitted under this Stipulation. Except for
3 work expressly authorized by this Stipulation, Cortez shall not impair, impede, or otherwise interfere
4 with plaintiffs' and their members' access to and use of public land.

5 The parties agree that this Stipulation and its terms and conditions are without prejudice to
6 the parties' respective claims, defenses, positions, and arguments relative to the plaintiffs' motion for
7 a preliminary injunction and the merits of this case.

8 STIPULATED and AGREED by the parties this 11th day of December, 2008:

9
10 By: /s/ Michael R. McCarthy

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16 By: /s/ Michael R. McCarthy *w/permission of Roger Flynn*

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The court hereby APPROVES this stipulation, and

IT IS SO ORDERED this 22nd day of December, 2008.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE

